

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GREGORY WALKER, #1661270,

Plaintiff,

v.

BRYAN COLLIER, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§

Case No. 6:19-CV-3-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Gregory Walker, an inmate confined in the Texas prison system, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. Plaintiff paid the full filing fee and is not proceeding in forma pauperis. In its March 11, 2019 Order, the Court informed Plaintiff that he was obligated to properly serve the Defendants before the expiration of 90 days from the date he filed his complaint. Docket No. 11.

In response to Plaintiff's purported service (Docket No. 64), Defendants University of Texas Medical Branch (UTMB), Pamela Pace, Bobby Burns, and Jancinta Assava filed their Motion to Dismiss for Insufficient Service pursuant to Federal Rules of Civil Procedure 12(b)(5). Docket No. 68. The above-styled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On December 18, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 89), recommending that Defendants UTMB, Pace, Burns, and Assava's motion to dismiss for insufficient service pursuant to Rule 12(b)(5) be granted.

On January 2, 2020, Plaintiff filed a motion for extension of time to file objections to the Report. Docket No. 91. The motion was granted (Docket No. 93), and Plaintiff was given until


January 31, 2020, to file objections to the Report. Plaintiff received the Order on or before January 14, 2020. As of the date of this Order, Plaintiff has not filed objections.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendations, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 89) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 89) be **ADOPTED** and that Defendants UTMB, Pace, Burns, and Assava's motion to dismiss for insufficient service (Docket No. 68) be **GRANTED**. Plaintiff's claims against Defendants UTMB, Pace, Burns, and Assava are **DISMISSED WITH PREJUDICE** pursuant to FED. R. CIV. P. 12(b)(5) and FED. R. CIV. P. 4(m).

So **ORDERED** and **SIGNED** this **4th** day of **February, 2020**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE